

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JAMES C. MARCELLO, and)	
OLIVIA MARCELLO)	
)	
Plaintiffs,)	
)	CV-06-68-B-W
v.)	
)	
STATE OF MAINE, et al.)	
)	
Defendants.)	

ORDER ON MOTION FOR ORDER OF RELEASE

On July 5, 2007, James Marcello moved the Court for an order of release. *Pls.’ Mot. for Release* (Docket # 123). It appears that Mr. Marcello has been arrested and is now in the Penobscot County Jail.¹ *Id.* at 2. He states that the Waterville District Court arrest warrant has been executed; he contends that his arrest is illegal and his imprisonment is false, because these actions are the result of a design by Attorney Jon Haddow and co-defendants Stewart Brooks and Travis Gould to “extort the real estate property of Plaintiff.” *Id.* at 1. He claims the “pledge” attached to the Order authorizing his arrest is an illegal attempt to confiscate his property; he describes the “pledge” as being “larceny at law” and “racketeering activity.” *Id.* at 2. Citing *Eastman v. Avery*, 23 Me. 248 (1843), he also avers that the “pledge” constitutes a bailment and that to be a bailment under Maine law, the bailee must have the “right to sell,” which he implies the state of Maine does not have.

¹ Mr. Marcello gives the address of the Penobscot County Jail as his mailing address together with a number, which the Court assumes is his inmate number.

Mr. Marcello has repeatedly invited the Court to vacate the state court order concerning his arrest.² In fact, it is fair to characterize his Complaint in this case as an attempt to challenge the legality of the state district court order, which authorized his arrest and imprisonment for contempt of court. *Compl.* ¶ 22 (Docket # 1). Since filing the complaint, Mr. Marcello has repeatedly filed motions that are variations on the theme that the underlying state court order is illegal. *See, e.g., Pls.’ Mot. to Temporarily Vacate State Court Order on Grounds of Special Circumstances* (Docket # 94); *Pls.’ Mot. for Reconsideration* (Docket # 100); *Pls.’ Mot. to Vacate a Summ. J.* (Docket # 108); *Pls.’ Mot. to Strike Judgment* (Docket # 110). The Court has denied each motion. *See, e.g., Order on Pls.’ Mot. to Vacate Maine District Court Order* (Docket # 95); *Order on Pls.’ Mot. to Reconsider* (Docket # 105); *Order Denying Mot. to Vacate Order on Mot. for Summ. J. and Denying Mot. to Strike* (Docket # 116).

The Court now denies Mr. Marcello’s most recent motion essentially for the same reasons the Court explained in its Order on Defendant’s Motion to Dismiss. *Order on Def.’s Mot. to Dismiss* (Docket # 76). The *Rooker-Feldman* doctrine largely bars the federal district court from reviewing state court judgments. *Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923); *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462 (1983). *Rooker-Feldman* “is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 283 (2005). Here, the state district court issued an order authorizing Mr. Marcello’s arrest and imprisonment for contempt of court. As the Court has explained time and again, if Mr. Marcello wishes to challenge the state court order, he

² The challenged order of the Maine District Court is dated May 19, 2006; it held Mr. Marcello in contempt of court for violating a November 23, 2005 order, sentenced him to thirty days in jail, and ordered the issuance of an arrest warrant. *See Order on Pls.’ Mot. to Reconsider* at 2-3 (Docket # 105).

must “seek permission from the state court that issued the Order, not from a federal court that did not.” *Order on Pls.’ Mot. to Reconsider* at 3.

The Court DENIES the Plaintiff’s Motion for Release (Docket # 123).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 9th day of July, 2007

Plaintiff

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V.

Defendant

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TERMINATED: 12/13/2006

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TERMINATED: 12/13/2006

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